

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:718/2001
DATED THE 3RD DAY OF APRIL,2002

CORAM:HON'BLE SHRI JUSTICE BIRENDRA DIKSHIT, VICE CHAIRMAN
HON'BLE SMT. SHANTA SHASTRY, MEMBER(A)

1. Mr.Namdeo Bhawoo Ahire,
residing at Kopargaon
Railway Station, Post Singnapur,
Tal.Kopargaon
Dist.Ahmednagar.

2. Mr.Riwaj Vithal Shelke,
residing at Post Belondi
Railway Station, Tal.Shirgonda,
Dist. Ahmednagar.

... Applicants

By Advocate Ms.Anita Patil for
Shri S.J.Ghogare

V/s.

1. The Divisional Railway Manager,
Central Railway,
Personnel Branch, Solapur Division,
Solapur.

2. Union of India through
The General Manager,
Central Railway,
Mumbai.

... Respondents

By Advocate Shri S.C.Dhawan

(ORAL)(ORDER)

Per Smt.Shanta Shastri, Member(A)

The applicants two in number have challenged the Office Order No.26/2001 dated 10/8/2001 regarding re-deployment of the Assistant Guards due to surrender of posts of Assistant Guards in the grade of Rs.3050=4590 (RSRP). The applicants are at Serial Nos.1 and 3 in the aforesaid order.

2. The applicants joined service on 19/1/1983 and 3/8/1983 respectively as Pointsman. They were promoted to the post of 'B' grade Pointsman, cabinman and thereafter further selected to the

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post of Assistant Guard on 3/11/1997 and were so functioning till the impugned order of re-deployment was issued.

3. The learned counsel for the applicant argued that several Mail and Express Trains require one Guard and Assistant Guard., In the Solapur District originally there were 48 posts of Assistant Guards which are reduced to 34 posts. There are about 5 vacant posts of Assistant Guards which have occurred due to retirement and about 4 to 5 posts are due to fall vacant in January, 2002. Since 1997, no posts of the Assistant Guards in Solapur District have been filled. There are about 43 Mail/Express Trains in the said division. As per the impugned order of 10/8/2001, 19 posts of Assistant Guards have been re-deployed due to surrender. According to the learned counsel it is not possible for the respondents to run 43 Mail/Express Trains from Solapur division on the basis of reduction of the Assistant Guards. According to the applicants, 25 posts are vacant in the said division and the applicants are due for promotion.

4. The learned counsel submits that the applicants were selected to the post of Assistant Guards after successful completion of written examination as well as training. They have worked in the post for the past four years and there are enough vacancies available. The learned counsel also referred to another case wherein 13 Assistant Guards had taken Voluntary Retirement and therefore according to the learned counsel for the applicants, the applicants cannot be surplus and they ought to have been continued as Assistant Guards. The applicant has however, not taken this plea in the OA. The learned counsel claims that this point has been taken in the rejoinder.

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5. In order to ascertain the correct position, we directed the respondents to produce the original record which has been produced. In the written statement, the respondents have explained that as a result of work study report of the Headquarter office, Bombay CST, on Assistant Guards, some posts of Assistant Guards have been declared as surplus in Solapur Division comprising of Solapur and Daund and correctly they were being surrendered by re-deployment. Initially, 25 posts of Assistant Guards were identified as surplus and six posts which were vacant had been surrendered. Remaining 19 posts were treated as supernumerary posts to be adjusted in future. Out of the 19 posts, options were called from Assistant Guards and ^{12 posts} were surrendered on 15/6/2001. Out of the remaining seven posts, six junior most Assistant Guards were re-deployed in the scale of Rs.3050-4590 (RSRP). The applicants being the juniormost have therefore been re-deployed. It is seen from the work study report on the working system and requirement of the Assistant Guards on through Mail and Express trains at Solapur Division that the position mentioned in the written statement of the respondent's tallies with the recommendations of the work study report.

6. According to the learned counsel for the applicants, the applicants have been working in the post of Pointsman since 1983 and it was by promotion that they were placed in the post of Assistant Guards. Redeploying them as Pointsman amounts to denying them the promotion which they had earned by their merit.

7. We have heard the learned counsel for the applicant as well as respondents and have perused the relevant record. It is

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seen that it was a policy decision of the respondents based on the work study report that the Respondents had to surrender the posts of Assistant Guards found to be surplus. They did so in phases and instead of retrenching, the respondents tried to accommodate the applicants by adjusting them against the posts of Pointman by redeployment i.e to their parent cadre. It is further found that the redeployment is in the same grade and pay. The respondents stated that it would be open to the applicants to apply for selection in the post of Goods Guard as and when such selection is notified. Though the two channels are different, the Pointsman being in the same grade and pay, we do not see any reason to interfere with the orders of the respondents. Accordingly, the OA is dismissed. No costs. Interim Relief dated 6/11/2001 is vacated.

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(SMT. SHANTA SHASTRY)
MEMBER(A)

B. Dikshit
(BIRENDRA DIKSHIT)
VICE CHAIRMAN

abp

dt 3/4/02
Order/Judgement despatched
to Applicant / respondent (s)
on 22/4/02

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